

APPENDIX A

JOINT DISPUTED CLAIM LANGUAGE CHART

Disputed Claim Term or Phrase	Plaintiffs' Proposed Construction	Plaintiffs' Citation to Intrinsic Evidence	Plaintiffs' Citation to Extrinsic Evidence	Defendant's Proposed Construction	Defendant's Citation to Intrinsic Evidence	Defendant's Citation to Extrinsic Evidence
<u>'984 Patent</u>						
a record associated with purchases made by the user, the record including the users achievement of a purchasing criteria (claim 1 and claim 14)	a record associated with fuel or non-fuel purchases made by the user, the record including a determination that the user is entitled to a discounted unit price based on a comparison of the user's purchases to predefined purchasing criteria	'984 Patent: Col 2, ln 29-32, 37-46; Col 3, ln 28-30; Col 8, ln 23-25; Col. 9, ln 23-64; Col 10, ln 1-4; Col 10, ln 13-31; Col 10, ln 53-59; Col 11, ln 40-47; Col 12, ln 1-6; Col 12, ln 46-47; Fig 9 (ref # 208); Fig. 9 (ref # 310, 314); Fig. 10 (ref # 403, 404).		a record associated with fuel and non-fuel purchases made by the user, the record including the users achievement of a purchasing criteria	'984 Patent: 1:59-67; 2:28-35; 4:13-24; 6:63 – 7:3; 9:31-67; 10:8-31; 10:42-67; 11:40-51.	
		'984 Patent File Wrapper: Amendment dated 1/10/2000 (EXCK-0000196-				

		EXCK-0000197)					
<u>'128 Patent</u>							
awarding a first discount on the PPU of the consumable good to the customer in response to a purchase by the customer of a first cross-marketed product (claim 1)	awarding a first product-specific reduction in a specified monetary amount on the price per unit of the consumable good to the customer in exchange for a purchase by the customer of a first predetermined product being marketed	<p><u>'128 Patent:</u> Col 1, ln 60-67; Col 3, ln 55-67; Col 4, ln 15-32; Col 5, ln 21-26; Col 6, ln 29-31, 57-61; Col 7, ln 21-26; Col 8, ln 5-7; Col 9, ln 46-48; Col 10, ln 47-48; Col 12, ln 19-20; Fig. 1 (ref# 11, 21, 22, 14)</p> <p><u>Provisional Patent Application Serial No. 60/093813</u> (EXCK-0003848-3851)</p> <p><u>'128 Patent File Wrapper:</u> Amendment dated Feb. 26, 2001 (EXCK-0000424-427, 0000432); Amendment</p>	<p><u>'942 Patent:</u> Fig 4 (ref# 45); Col 6, ln 5-27</p> <p><u>'942 Patent File Wrapper:</u> Amendment dated Feb. 19, 2009 (EXCK-0002543)</p>	Other than "discount" (defined below), No Construction Required – Plain and Ordinary Meaning If construed: awarding a first representation of reduction on the PPU of the consumable good to the customer in response to a purchase by the customer of a first cross-marketed product	<u>'128 Patent:</u> 1:60-67; 2:40-57; 3:1-6; 3:58-62; 4:19-20; 5:21-24; 8:62-64.		

discount (claim 1 and claim 20)	Should not be construed outside the context of the surrounding claim language. The proper construction in context is: reduction in a specified monetary amount	dated July 19, 2001 (EXCK-0000470, 0000477)	'128 Patent: Col 1, ln 60-67; Col 3, ln 55-67; Col 4, ln 15-32; Col 5, ln 21-26; Col 6, ln 29-31, 57-61; Col 7, ln 21-26; Col 8, ln 5-7; Col 9, ln 46-48; Col 10, ln 47-48; Col 12, ln 19-20; Fig. 1 (ref # 11, 21, 22, 14) <u>Provisional Patent Application Serial No. 60/093813</u> (EXCK-0003848-3851) <u>'128 Patent File Wrapper:</u> Amendment dated Feb. 26, 2001 (EXCK-	'128 Patent: Fig 4 (ref # 45); Col 6, ln 5-27 <u>'942 Patent File Wrapper:</u> Amendment dated Feb. 19, 2009 (EXCK-0002543)	representation of reduction	'128 Patent: Fig. 2, Field 5, Field 7; 1:48; 1:66-67; 5:55-6:2.	
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awarding a second discount on the PPU of the consumable good to the customer in response to a purchase by the customer of a second cross-marketed product (claim 1)	(same as construction above except substitute "second" for "first")	0000424-427, 0000432); Amendment dated July 19, 2001 (EXCK-0000470, 0000477)	<u>'128 Patent:</u> Col 1, ln 60– col 2, ln 2; Col 3, ln 55-67; Col 4, ln 6-32; Col 5, ln 21-26; Col 6, ln 29-31, 57-61; Col 7, ln 21-26; Col 8, ln 5-7; Col 9, ln 46-48; Col 10, ln 47-48; Col 12, ln 19-20; Fig. 1 (ref # 11, 21, 22, 14) <u>Provisional Patent Application Serial No. 60/093813</u> (EXCK-0003848-3851) <u>'128 Patent File Wrapper:</u> Amendment	<u>'942 Patent:</u> Fig 4 (ref # 45); Col 6, ln 5-27 <u>'942 Patent File Wrapper:</u> Amendment dated Feb. 19, 2009 (EXCK-0002543)	Other than “discount” (defined above), No Construction Required – Plain and Ordinary Meaning If construed please see above.		
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second merchant (claim 2)	merchant that is distinct and independent from the first merchant	dated Feb. 26, 2001 (EXCK- 0000424-427, 0000432); Amendment dated July 19, 2001 (EXCK- 0000470, 0000477)		No Construction Required – Plain and Ordinary Meaning If construed: merchant that is different than the first merchant	<u>'128 Patent:</u> Fig 2, Field 1a. Field 1b; 4:35- 37; 5:48-50. <u>'128 Patent File Wrapper:</u> February 26, 2001 Amendment, at 11.		
coupon providing a unique customer identification and a unique discount	coupon that includes both a unique number that identifies a particular customer and a unique number	<u>'128 Patent File Wrapper:</u> Affidavit dated Feb. 22, 2001 (EXCK-0000412)		No Construction Required – Plain and Ordinary Meaning If construed: coupon that	<u>'128 Patent:</u> Fig. 2, Field 5, Field 7; 1:48; 1:66-67; 4:40- 65; 5:20-32; 5:55-6:2; 9:15-		

identification (claim 4 and claim 23)	that identifies a specific discount awarded to the particular customer	Amendment dated Feb. 26, 2001 (EXCK- 0000426- 0000428) <u>'128 Patent:</u> Col 5, ln 26-54; Col 7, ln 8-13; Fig 2 (field # 1, 1a, 1b, 1c)		identifies a customer and a representation of reduction associated with that customer	17.	
storing the total discount in a database which associates the total discount with the unique customer identification and discount identification (claim 4)	storing the total discount in a database that matches, for later redemption, the total discount with the unique customer identification and discount identification	<u>'128 Patent:</u> Fig 1 (ref # 22, 14); Col 5, ln 26- 29, 37-59; Col 6, ln 15-21; Fig 2 (field # 1, 1a, 1b, 1c, 5); Col 7, ln 8-12; Col 8, ln 17-21 <u>Provisional Patent Application Serial No. 60/093813:</u> (EXCK-0003849)		No Construction Required – Plain and Ordinary Meaning If construed: storing a representation of reduction in a database which associates the total representation of reduction with the customer and a representation of reduction associated with the customer	<u>'128 Patent:</u> Fig. 1 (ref #14); Fig. 2, Field 5, Field 7; 1:48; 1:66-67; 2:54- 61; 3:12-16; 4:40-65; 5:20- 32; 5:55-6:2; 9:13-20; 9:18- 20.	

a discounts issued database for storing discounts (claim 20)	a database for storing reductions in specified monetary amounts issued to customers for later redemption	'128 Patent: Fig 1 (ref # 14); Fig 2 (field # 1, 1c, 5, 9, 10); Fig 3A (ref # 44); Fig 3C (ref # 75); Col 2, ln 58-65; Col 3, ln 12-21; Col 5, ln 26-29; Col 6, ln 20-21, 57-61 <u>Provisional Patent Application Serial No. 60/093813</u> : (EXCK-0003848-0003851)		No Construction Required – Plain and Ordinary Meaning If construed: database for storing representation of reduction information	'128 Patent: Fig. 1 (ref #14); Fig. 2, Field 5, Field 7; 1:48; 1:66-67; 2:54-61; 3:12-16; 4:40-65; 5:20-32; 5:55-6:2; 9:13-20; 9:18-20.	
means for calculating a first discount on the PPU of the consumable good in response to a purchase by a customer of a first cross-marketed product (claim 20)	an in-store point of sale controller that operates in a first transaction to award a first product-specific reduction in a specified monetary amount on the price per unit of the consumable good to the customer in exchange for a purchase by the customer of a first predetermined	'128 Patent: Fig 1 (ref #11, 21); Col 5, ln 21-26; Col 1, ln 60-67; Col 3, ln 55-67; Col 4, ln 15-32; Col 6, ln 29-31, 57-61; Col 7, ln 21-26; Col 8, ln 5-7; Col 9, ln 46-48; Col 10, ln 47-48; Col 12, ln 19-20 <u>Provisional Patent Application Serial</u>	'942 Patent: Fig 4 (ref # 45); Col 6, ln 5-27 '942 Patent <u>File Wrapper</u> : Amendment dated Feb. 19, 2009 (EXCK-0002543)	The claimed function is “calculating a first representation of reduction on the PPU of the consumable good in response to a purchase by a customer of a first cross-marketed product.” The structure for performing the function is a point of sale terminal and any	'128 Patent: 5:21-24; Fig. 1.	

	product being marketed and then adds the first product-specific reduction to another reduction amount	No. 60/093813 (EXCK-0003848-3851) <u>'128 Patent File Wrapper:</u> Amendment dated Feb. 26, 2001 (EXCK-0000424-427, 0000432-433); Amendment dated July 19, 2001 (EXCK-0000473-474, 0000477)		equivalents.	
means for calculating a second discount on the PPU of the consumable good in response to a purchase by the customer of a second cross-marketed product (claim 20)	(same as immediately preceding construction above except substitute "second" for "first")	<u>'128 Patent:</u> Fig 1 (ref #11, 21); Col 5, ln 21-26; Col 1, ln 60-67; Col 3, ln 55-67; Col 4, ln 15-32; Col 6, ln 29-31, 57-61; Col 7, ln 21-26; Col 8, ln 5-7; Col 9, ln 46-48; Col 10, ln 47-48; Col 12, ln	<u>'942 Patent:</u> Fig 4 (ref # 45); Col 6, ln 5-27 <u>'942 Patent File Wrapper:</u> Amendment dated Feb. 19, 2009 (EXCK-0002543)	The claimed function is "calculating a second representation of reduction on the PPU of the consumable good in response to a purchase by the customer of a second cross-marketed product. The structure for	<u>'128 Patent:</u> 5:21-24; Fig. 1.

			19-20 <u>Provisional Patent Application Serial No. 60/093813 (EXCK-0003848-3851)</u> <u>'128 Patent File Wrapper:</u> Amendment dated Feb. 26, 2001 (EXCK-0000424-427, 0000432-433); Amendment dated July 19, 2001 (EXCK-0000473-474, 0000477)		performing the function is a point of sale terminal and any equivalents.		
means for adding a first discount from a first merchant to a second discount from a second merchant (claim 21)	a database processor that executes an algorithm that retrieves from computer memory and then adds together a first reduction in a specified monetary amount from a first merchant and	<u>'128 Patent:</u> Fig 1 (ref # 13, 26, 28, and arrow from 28 to 24); Fig 3A (ref # 43, 44, 45); Col 4, ln 33-39; Col 5, ln 16-20; Col 6, ln 20-21, 33-36; Col 7, ln 8-21;			The claimed function is “adding a first representation of reduction from a first merchant to a second representation of reduction from a second merchant.” The structure for performing the	<u>'128 Patent:</u> 6:22 – 24; Fig. 1.	

transmission means for transmitting the unique customer identification and the discount identification from the POS terminal to the discounts issued database (claim 23)	a second reduction in a specified monetary amount from another merchant that is distinct and independent from the first merchant	<u>'128 Patent File Wrapper:</u> Amendment dated Feb. 26, 2001 (EXCK-0000424, 0000433-434) Restriction Requirement dated Jan. 3, 2001 (EXCK-0000389)		function is a controller and any equivalents.	
	a discount identification record sent from the in-store point of sale terminal to the discounts issued database, the record including both the unique number that identifies the particular customer and the unique number that identifies the specific discount awarded to the particular customer	<u>'128 Patent:</u> Col 5, ln 37-40; Fig 1 (ref # 22)		The claimed function is “transmitting the unique customer identification and the representation of reduction identification from the POS terminal to the database.” The structure for performing the function is a network and any equivalents.	<u>'128 Patent:</u> Fig. 1; 2:17-19; 6:20-36.

<u>'204 Patent</u>	determining by a comparison operation that the customer purchased a predefined threshold quantity of non-fuel products or services in a first visit to the store (claim 1)	<u>'204 Patent:</u> Col 6, ln 51-58; Col 9, ln 21-33, 36-49, 58-62; Col 10, ln 1-10, 41-47; Fig 9 (ref # 306, 308, 310, 318, 320)		No Construction Required – Plain and Ordinary Meaning If construed: determining that the customer purchased non-fuel products or services in a first visit to the store	<u>'204 Patent:</u> 1:42-45; 1:60-64; 6:62 – 7:2; 11:22-49.	
providing the customer with a first reward entitling the customer to a first amount of free fuel in exchange for purchasing the non-fuel products or services in the first visit (claim 1)	providing to the customer, upon detection that the customer purchased the predefined threshold quantity of non-fuel products or services during the first store visit, a first reward entitling the customer to receive a first defined amount of fuel at no charge to the customer, rather than at a	<u>'204 Patent:</u> Col 6, ln 51-col 7, ln 2; Col 9, ln 30-31, 40-43, 46-49; Col 10, ln 41-55; Fig 9 (ref # 306, 308, 318, 320) (see transaction dated 1/17/99)	<u>Webster's New World Dictionary, Third College Edition – "free"</u> means at no charge or cost <u>'128 Patent:</u> Col 1, ln 34-53 <u>'128 Patent File Wrapper:</u> Amendment dated February, 2001 (EXCK-	No Construction Required – Plain and Ordinary Meaning If construed: providing the customer with a first reward entitling the customer to some fuel at no charge in exchange for purchasing the non-fuel products or services in the first visit	<u>'204 Patent:</u> 1:45-53; 1:64 – 2:4; 6:52 – 7:2; 8:25-27; 9:18-55; 9:63 – 10:19; 10:29 – 55; 11:22-49.	

	reduced unit price		0000426-427, 0000432-433)			
detecting that the customer purchased a number of non-fuel products or services in a second visit to the store (claim 1)	(see previous "detecting" limitation in claim 1 of '204 patent above but replace "first" with "second")	'204 Patent: Col 6, ln 51-61; Col 9, ln 21-33, 36-49, 58-62; Col 10, ln 1-10, 41-47; Fig 9 (ref # 306, 308, 310, 318, 320)		(see previous "detecting" limitation in claim 1 of the '204 Patent)		
providing the customer with a second reward entitling the customer to a second amount of free fuel in exchange for purchasing the non-fuel products or services in the second visit (claim 1)	(see previous "providing" limitation in claim 1 of the '204 patent above but replace "first" with "second")	'204 Patent: Col 6, ln 51-col 7, ln 2; Col 9, ln 30-31, 40-43, 46-49; Col 10, ln 41-55; Fig 9 (ref # 306, 308, 318, 320) (see transaction dated 1/17/99);	<u>Webster's New World Dictionary</u> , <u>Third College Edition</u> – "free" means at no charge or cost '128 Patent: Col 1, ln 34-53 '128 Patent <u>File Wrapper</u> : Amendment dated February, 2001 (EXCK-	(see previous "providing" limitation in claim 1 of the '204 Patent)		

dispensing an amount of free fuel to the customer equal to the total of the first and second amounts of free fuel (claim 1)	dispensing at no charge to the customer, rather than at a reduced unit price, a total amount of fuel equal to the sum of the first and second amounts previously awarded to the customer	'204 Patent: Col 6, ln 51-64 <u>'204 Patent File Wrapper:</u> Notice of Allowance (EXCK-0001366)	0000426-427, 0000432-433)	'128 Patent: Col 1, ln 34-53 <u>'128 Patent File Wrapper:</u> Amendment dated February, 2001 (EXCK-0000426-427)	Other than "dispensing an amount of free fuel" (see below), No Construction Required – Plain and Ordinary Meaning	<u>'204 Patent:</u> 3:25 – 4:11; 5:51 – 6:2; 6:62 – 7:2; 8:38-50; 10:63 – 11:1.	
dispensing an amount of free fuel (claim 1 and claim 7)	dispensing at no charge to the customer, rather than at a reduced unit price, an amount of fuel	'204 Patent: Col 6, ln 51-64 <u>'204 Patent File Wrapper:</u> Notice of Allowance (EXCK-0001366)		'128 Patent: Col 1, ln 34-53 <u>'128 Patent File Wrapper:</u> Amendment dated February, 2001 (EXCK-0000426-427)	providing some fuel at no charge	<u>'204 Patent:</u> Fig. 10; 3:25 – 4:11; 5:51 – 6:2; 6:40 – 7:17; 8:38-50; 10:63 – 11:1.	
storing the first and second	storing in a rewards database,	'204 Patent:			No Construction Required – Plain	<u>'204 Patent:</u>	

rewards in a rewards database (claim 5)	for later redemption and as separately identifiable values, both the first defined amount of free fuel awarded to the customer and the second defined amount of free fuel awarded to the customer	Col 2, ln 27-49; Fig 9 (ref # 314; Col 9, ln 11-13, 33-36		and Ordinary Meaning If construed: storing the rewards in a database	4:1-12; 8:7-20; 10:29-40.	
dispensing additional fuel to the customer (claim 6)	after dispensing the amount of fuel at no charge, dispensing more fuel to the customer	'204 Patent: Col 6, ln 51-col 7, ln 2		No Construction Required – Plain and Ordinary Meaning If construed: dispensing more fuel to the customer	'204 Patent: 6:51 – 7:2.	
means for detecting that the customer purchased a number of non-fuel products or services in a first visit to the store, and that the customer	an indefinite structure and algorithm for determining by a comparison operation that the customer purchased a predefined threshold quantity	'204 Patent: Fig 8 (ref # 201, 202, 204, 206); Col 7, ln 60 – col 8, ln 20; Fig 9 (ref # 306, 308); Col 9, 11-39; Col 10, ln 29-47		The function is “detecting that the customer purchased a number of non-fuel products or services in a first visit to the store, and that the customer	'204 Patent: 3:57-64; 1:60-64; 10:29-40.	

purchased a number of non-fuel products or services in a second visit to the store (claim 7)	of non-fuel products or services in a first visit to the store and determining by a comparison operation that the customer purchased a predefined threshold quantity of non-fuel products or services in a second visit to the store			purchased a number of non-fuel products or services in a second visit to the store.” The structure for performing the claimed function is a POS controller (<i>i.e.</i> , terminal) or equivalent thereof.	
means for providing the customer with a first reward entitling the customer to a first amount of free fuel in exchange for purchasing the non-fuel products or services in the first visit, and for providing the customer with a	indefinite structure and algorithm for providing to the customer, upon detection that the customer purchased the predefined threshold quantity of non-fuel products or services during the first store visit, a first reward entitling the customer to	<u>'204 Patent:</u> Col 6, ln 51-col 7, ln 2; Fig 9 (ref # 306, 308, 318, 320) (see transaction dated 1/17/99); Col 9, ln 30-31, 40-43, 46-49; Col 10, ln 41-55	<u>Webster's New World Dictionary, Third College Edition – "free"</u> means at no charge or cost <u>'128 Patent:</u> Col 1, ln 34-53 <u>'128 Patent File Wrapper:</u> Amendment dated	The function is “providing the customer with a first reward entitling the customer to a first amount of fuel at no charge in exchange for purchasing the non-fuel products or services in the first visit, and for providing the customer with a second reward	<u>'204 Patent:</u> 4:57 – 5:12; 1:64 – 2:4; Fig. 10 (illustrating the algorithm); 10:36 – 53.

The Kroger Co. et al. v. Excentus Corporation, Civil Action No. 1:10-CV-161

second reward entitling the customer to a second amount of free fuel in exchange for purchasing the non-fuel products or services in the second visit (claim 7)	receive a first defined amount of fuel at no charge to the customer, rather than at a reduced unit price, and for providing to the customer, upon detection that the customer purchased the predefined threshold quantity of non-fuel products or services during the second store visit, a second reward entitling the customer to receive a second defined amount of fuel at no charge to the customer, rather than at a reduced unit price	February, 2001 (EXCK-0000426-427, 0000432-433)	entitling the customer to a second amount of fuel at no charge in exchange for purchasing the non-fuel products or services in the second visit.” The structure for performing the claimed function is a computing center, computer, server or equivalent thereof.	
means for dispensing an amount of free	indefinite structure and algorithm for dispensing at no	<u>'204 Patent:</u> Col 6, ln 51-col 7,	The claimed function is “providing some	<u>'204 Patent:</u> Figs. 1, 5, 7;

fuel to the customer equal to the total of the first and second amounts of free fuel (claim 7)	charge to the customer, rather than at a reduced unit price, a total amount of fuel equal to the sum of the first and second amounts previously awarded to the customer	In 2		fuel at no charge to the customer equal to the total of the first and second amount of free fuel.” The structure for performing the claimed function is a fuel dispenser.	3:25–30; 6:40 – 7:31.	
a rewards database for storing the first and second rewards (claim 12)	a rewards database that stores, for later redemption and as separately identifiable values, both the first defined amount of free fuel awarded to the customer and the second defined amount of free fuel awarded to the customer	<u>‘204 Patent:</u> Col 2, ln 27-49; Fig 9 (ref # 314); Col 9, ln 11-13, 33-36		No Construction Required – Plain and Ordinary Meaning If construed: database for storing the rewards	<u>‘204 Patent:</u> 4:1-12; 8:7-20; 10:29-40.	
identifying means (claim 12)	indefinite structure for identifying the customer during a subsequent fueling transaction			The claimed function is “identifying.” The structure for performing the claimed function is a bar code reader, magnetic strip	<u>‘204 Patent:</u> Fig. 5; 5:58-63; 3:42-44; 6:40 – 7:27.	

					reader device, keypad, transponder or any equivalents.		
means responsive to reading the credit card for dispensing additional fuel to the customer (claim 13)	indefinite structure and algorithm for dispensing, in response to reading the customer's credit card, more fuel to the customer after dispensing the amount of fuel at no charge	<u>'204 Patent:</u> Col 6, ln 51-col 7, ln 2			The function is "dispensing more fuel to the customer." The structure for performing the claimed function is a fuel dispenser.	<u>'204 Patent:</u> Figs. 1, 5, 7; 3:25 – 30; 6:65 - 7:2.	
means for charging the credit card only for the additional fuel dispensed (claim 13)	indefinite structure and algorithm for charging the credit card only for the additional fuel dispensed	<u>'204 Patent:</u> Col 6, ln 51-col 7, ln 2			The function is "charging the credit card only for the additional fuel dispensed." The structure for performing the claimed function is a POS controller and any equivalents.	<u>'204 Patent:</u> 4:46-55; 3:42-44; 6:65 – 7:2.	
<u>'942 Patent</u>							
increasing customer use of third-party	increasing use of multiple, different payment cards	<u>'942 Patent:</u> Col 3, ln 24-37,			No Construction Required – Plain and Ordinary	<u>'942 Patent:</u> 1:21-62; 3:24-	

financial cards issued by a plurality of third-party issuers (claim 1)	issued to customers by multiple, different issuers that are unrelated to the fuel merchant	52-60; Col 4, ln 44-46 <u>'942 Patent File Wrapper:</u> Amendment dated Dec. 13, 2007 (EXCK-0002618); Amendment dated February 19, 2009 (EXCK-0002544); Amendment dated Sept. 3, 2009 (EXCK-0002302, 0002306-2307); Amendment dated Feb. 2, 2010 (EXCK-0002261); Amendment dated March 9, 2010 (EXCK-0002244)		Meaning If construed: increasing customer use of third-party financial cards issued by more than one third-party issuer	26; 3:52-54.	
storing in a database, a PPU discount associated with one of third-	storing in a database a price per unit reduction in a specified monetary amount	<u>'942 Patent:</u> Fig 1 (ref # 11, 12, 13, 14, 15); Fig 3 (ref # 23);		No Construction Required – Plain and Ordinary Meaning	<u>'942 Patent:</u> 3:27-29; 3:37-41; 4:4-16; 4:27-31; 4:44-	

party issuers (claim 1)	to which a customer is entitled for using a payment card that specific issuer's is promoted, where the issuer is unrelated to the fuel merchant	Col 2, ln 20-25; Col 4, ln 26-46; Col 4, ln 63 – col 5, ln 6 <u>'942 Patent File Wrapper:</u> Amendment dated Dec 13, 2007 (EXCK-0002618); Amendment dated March 9, 2010 (EXCK-0002240); (EXCK0002244) ; Notice of Allowability and Examiner's Amended dated March 27, 2010 (EXCK-0002203)		If construed: storing in a database a PPU discount associated with one of third-party issuers	46.	
the PPU discount is defined in affinity-type agreements between a fuel merchant and third-party issuers	the price per unit reduction in a specified monetary amount is defined in an affinity-type agreement between a fuel merchant and an issuer that is	<u>'942 Patent:</u> Fig 1 (ref # 11, 12, 13, 14); Col 3, ln 27-60; Col 4, ln 4-13, 26-46 <u>'942 Patent File</u>		No Construction Required – Plain and Ordinary Meaning	<u>'942 Patent:</u> 1:32-58; 3:55-67; 4:27-31.	

(claim 1)	unrelated to the fuel merchant	<u>Wrapper:</u> Amendment dated Dec 13, 2007 (EXCK-0002618, 0002622-2623); Amendment dated May 28, 2008 (EXCK-0002585)				
each issuer having a PPU discount individually associated therewith (claim 1 and claim 9)	each issuer having an independent price per unit reduction in a specified monetary amount associated with the issuer	<u>'942 Patent:</u> Col 3, ln 29-37; Col 4, ln 33-47; Col 4, ln 63 – col 5, ln 6 <u>'942 Patent File Wrapper:</u> Amendment dated February 19, 2009 (EXCK-0002544); Amendment dated Sept. 3, 2009 (EXCK-0002302, 0002306-2307);	a per unit discount relates to each issuer	<u>'942 Patent:</u> 2:4-5; 2:19-22; 3:37-41; 4:4-16; 4:41-46.		

associating the identified third-party issuer of the financial card with the stored PPU discount for the fuel (claim 1 and claim 9)		Amendment dated Feb. 2, 2010 (EXCK-0002261); Amendment dated March 9, 2010 (EXCK-0002244)		associating the proper per unit discount with each issuer	<u>'942 Patent:</u> 2:4-5; 2:19-22; 3:37-41; 4:4-16; 4:41-46.	
	associating the identity of the third-party financial card issuer with the stored price per unit reduction in a specified monetary amount to which the customer is entitled for using the third-party issuer's financial card, where the third-party issuer is unrelated to the fuel merchant	<u>'942 Patent:</u> Col 3, ln 29-37; Col 4, ln 33-47; Col 4, ln 63 – col 5, ln 6 <u>'942 Patent File Wrapper:</u> Amendment dated February 19, 2009 (EXCK-0002544); Amendment dated Sept. 3, 2009 (EXCK-0002302, 0002306-2307); Amendment dated Feb. 2, 2010 (EXCK-0002261); Amendment				

allocating the redeemed discount (claim 1 and claim 9)	Must be construed in the context of the surrounding claim language. The proper construction, in context, is provided in the next disputed phrase.	dated March 9, 2010 (EXCK-0002244) (See below)		the value of the reduction is distributed	<u>'942 Patent:</u> 2:9-13; 2:25-28; 3:46-51; 4:17-25; 4:50-57; 5:10-26.	
allocating the redeemed discount between the third-party issuer of the financial card and the fuel merchant (claim 1)	charging the issuer of the customer's payment card for a portion of the fuel merchant's cost for the redeemed discount	<u>'942 Patent:</u> Col 3, ln 46-51; Col 4, ln 20-25, 54-61; Col 5, ln 21-27; Fig 1 (ref #18); Fig 2 (ref #27, 28, 29); Fig 3 (ref # 37) <u>'942 Patent File Wrapper:</u> Amendment dated Dec 13, 2007 (EXCK-0002623); Amendment dated May 28,		Other than "allocating the redeemed discount" (see above), No Construction is Required – Plain and Ordinary Meaning	<u>'942 Patent:</u> 2:9-13; 2:25-28; 3:46-51; 4:17-25; 4:50-57; 5:10-26.	

increasing customer use of a third-party financial card issued by a third-party issuer, wherein the third-party financial card is selected from a group consisting of different issuers of credit cards (Claim 9)		2008 (EXCK-0002579, 0002585); Amendment dated Feb. 2, 2010 (EXCK-0002261-2262)			
increasing use of multiple, different payment cards issued to customers by multiple, different issuers that are unrelated to the fuel merchant		<p><u>'942 Patent:</u> Col 3, ln 24-37, 52-60; Col 4, ln 44-46</p> <p><u>'942 Patent File Wrapper:</u> Amendment dated Dec. 13, 2007 (EXCK-0002620); Amendment dated February 19, 2009 (EXCK-0002544); Amendment dated Sept. 3, 2009 (EXCK-0002304, 0002306-2307); Amendment dated Feb. 2, 2010 (EXCK-</p>		<p>No Construction Required – Plain and Ordinary Meaning</p> <p>If construed: increasing customer use of third-party financial cards issued by more than one third-party issuer</p>	<p><u>'942 Patent:</u> 1:21-62; 3:24-26; 3:52-54.</p>

a relationship database for associating the identified issuer of the financial card with a stored PPU discount for the fuel, said PPU discount individualized to said issuer (claim 9)	a database that stores the identity of the third-party financial card issuer in association with a stored price per unit reduction in a specified monetary amount to which a customer is entitled for using the third-party issuer's financial card, where the third-party issuer is unrelated to the fuel merchant	0002261); Amendment dated March 9, 2010 (EXCK-0002244)			No Construction is Required – Plain and Ordinary Meaning If construed: database for associating the card issuer with a stored PPU discount for the fuel where the PPU discount is individualized to said issuer	<u>'942 Patent:</u> 2:4-5; 2:19-21; 4:41-44; 5:4-6.	
		<u>'942 Patent:</u> Fig 1 (ref # 11, 12, 13, 14, 15); Fig 3 (ref # 23); Col 2, ln 20-25; Col 4, ln 26-46; Col 4, ln 63 – col 5, ln 6 <u>'942 Patent File Wrapper:</u> Amendment dated Dec 13, 2007 (EXCK-0002620); Amendment dated February 19, 2009 (EXCK-0002544); Amendment dated March 9, 2010 (EXCK0002244) ; Amendment dated Sept. 3,					

the stored PPU discount is defined in an affinity-type agreement between the fuel merchant and the third-party issuer (claim 9)	the stored price per unit reduction in a specified monetary amount is defined in an affinity-type agreement between the fuel merchant and the issuer that is unrelated to the fuel merchant	2009 (EXCK-0002304, 0002306-2307); Amendment dated Feb. 2, 2010 (EXCK-0002261); Notice of Allowability and Examiner's Amended dated March 27, 2010 (EXCK-0002203)				
		'942 Patent: Fig 1 (ref # 11, 12, 13, 14); Col 3, ln 27-60; Col 4, ln 4-13, 26-46 '942 Patent File Wrapper: Amendment dated Dec 13, 2007 (EXCK-0002620, 0002622-2623); Amendment dated May 28, 2008 (EXCK-	No Construction is Required – Plain and Ordinary Meaning	'942 Patent: 1:32-58; 2:19-21; 3:55-67; 4:27-31; 4:41-44; 5:4-6.		

		0002585)				
means for identifying the third-party issuer of the financial card by analyzing the financial card number (Claim 9)	indefinite structure and algorithm for determining the identity of a specific issuer of the payment card by examining the Bank Identification Number range of the payment card number	'942 Patent: Col 3, ln 29-37		The function is “identifying the third-party issuer of the financial card by analyzing the financial card number.” The structure for performing the claimed function is an Island Card Reader or an equivalent thereof.	'942 Patent: Fig. 2; 4:33-44; 62-66.	
means for allocating the redeemed discount between the third-party issuer of the financial card and the fuel merchant (claim 9)	indefinite structure and algorithm for charging the issuer of the customer's payment card for a portion of the fuel merchant's cost for the redeemed discount	'942 Patent: Col 3, ln 46-51; Col 4, ln 20-25, 54-61; Col 5, ln 21-27; Fig 1 (ref #18); Fig 2 (ref #27, 28, 29); Fig 3 (ref # 37) '942 Patent File Wrapper: Amendment dated Dec 13, 2007 (EXCK-0002623); Amendment		The claimed function is “the value of the reduction is distributed between the third-party issuer of the financial card and the fuel merchant.” The structure for performing the claimed function is a clearing mechanism that interfaces with a redeemed discounts calculator or an	'942 Patent: Fig. 2; 5:21 – 26; 2:25-28.	

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			dated May 28, 2008 (EXCK- 0002582, 0002585); Amendment dated Feb. 2, 2010 (EXCK- 0002261-2262)				equivalent thereof.		
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